

**CITY OF WHEATON POLICIES AND PROCEDURES RELATING TO THE
USE OF TAX INCREMENT FINANCING**

I. INTRODUCTION

- A. The purpose of this document is to provide guidance for the City of Wheaton's use of Tax Increment Financing assistance for development activities in its Tax Increment Financing Districts.
- B. As a matter of policy, the City of Wheaton will consider using Tax Increment Financing to assist private developments only in those circumstances in which the proposed private projects show a demonstrated financing gap and will assist the City in meeting the goals identified in the City's applicable Tax Increment Financing Plan and this policy.
- C. Tax Increment Financing will be used to provide funds for eligible project costs including the construction of public infrastructure, promotion of development opportunities and expansion of future tax base.
- D. This policy shall be used as a guide in processing and reviewing applications requesting Tax Increment Financing assistance. The City Council shall have the option of amending or waiving sections of this policy when determined necessary or appropriate.
- E. The fundamental purpose of Tax Increment Financing assistance is to encourage desirable development/redevelopment projects that would not otherwise occur "but for" the assistance provided through Tax Increment Financing.
- F. It is the intent of the City to provide the minimum amount of Tax Increment Financing assistance to make the project viable. The provision of financial assistance is at the sole discretion of the City. The City reserves the right to reject or approve projects on a case-by-case basis, taking into account established policies, specific project criteria and the demand on City services in relation to the potential benefits to be received from the proposed project. Meeting policy guidelines or other criteria does not guarantee the award of Tax Increment Financing assistance. Furthermore, the approval or denial of one project is not intended to set a precedent for approval or denial of another project.

II. TIF FUNDING OBJECTIVES

The City will consider utilizing Tax Increment Financing funds for the following purposes:

- A. Attracting, retaining or expanding businesses for the purpose of improving the City's economic base.
- B. Encouraging development projects that enhance the streetscape and pedestrian experience and improve the vitality of the Central Area by adding interest and activity on the first floor of mixed-use buildings.
- C. Improving the public infrastructure.
- D. Providing a variety of quality housing choices.

III. ELIGIBLE DEVELOPMENT

The type of development for which the City will consider Tax Increment Financing funding include the following:

- A. Business Development (Attraction, Retention, Expansion).
- B. Housing (Owner Occupied/Rental).
- C. Attainable Housing.
- D. Historic Revitalization.
- E. Development Consistent with approved TIF Plans.
- F. Development Consistent with the City's Comprehensive Plan.
- G. Development compatible with Other Redeveloped Properties in Terms of Land Use, Capital Improvements, and Pedestrian/Vehicular Traffic Patterns.
- H. Green Development.

IV. GENERAL POLICIES FOR THE USE OF TAX INCREMENT FINANCING

- A. Tax Increment Financing assistance will not be provided to projects that have the financial feasibility (as determined by the City's financial advisor) to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a developer's profit margin on the project. Prior to consideration of a Tax Increment Financing assistance request, the City will undertake an independent analysis of the project costs to ensure that the request for assistance is valid.
- B. Individuals requesting Tax Increment Financing assistance must demonstrate, to the satisfaction of the City, sufficient equity investment in the project.

Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project.

- C. Tax Increment Financing assistance for land/property purchase costs will not be provided in an amount exceeding ten percent (10%) of the fair market value of the property. The fair market value will be determined by an independent appraiser hired by the City. The cost of the appraisal will be paid for by the developer.
- D. For parcels of property that are “tax exempt” prior to redevelopment, the projections for incremental revenue generation will be based upon the projected revenue generation after the placement of an initial valuation on the property.
- E. The developer shall provide any market and financial feasibility studies, appraisals and all information provided to private lenders for the project as well as any other information or data which the City, or its financial consultants, may require in order to review the need for Tax Increment Financing assistance.
- F. Tax Increment Financing assistance will not be used for projects that place extraordinary demands on City infrastructure or services.
- G. The developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to, letters of credit, cash escrow and personal guarantees.
- H. The developer must be able to demonstrate to the City’s satisfaction, an ability to construct, operate and maintain the proposed project based upon past experience, general reputation and credit history.
- I. When the project is intended as a for-sale development (i.e., office, retail or residential condominiums), the developer must retain ownership of the overall project until final completion; provided, however, that individual condominium units may be sold as they are completed. For all other projects, the developer must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management and to initiate payment of taxes based on the increased project value.

All projects are subject to the provisions of Section V(C).

- J. The level of Tax Increment Financing assistance should be reduced to the lowest possible level in the least amount of time by maximizing the use of private debt and equity financing first.
- K. TIF assistance shall not exceed 70% of the projected TIF revenue for the project.
- L. Each TIF project must demonstrate the probability of economic success. The developer shall initiate this effort by submitting to the City preliminary sales,

rental and other data projections and/or proforma analyses concerning the subject site.

- M. Development projects receiving TIF assistance will be required to provide a full reimbursement of the City's financial assistance and expenses in the event the Project is removed from the tax rolls during the period of time that the applicable development project area is in existence. The developer shall sign appropriate legal documents indicating agreement with this mandate.
- N. At least 10% of the units in a Residential Development must be attainable.

V. CRITERIA FOR TAX INCREMENT FINANCING ASSISTANCE

- A. Tax Increment Financing assistance will be provided by the City on a "pay-as-you-go" note method. Requests for up-front financing may be considered on a case-by-case basis if increment generation is sufficient to meet initial financing and debt service costs. The developer will be responsible to provide tax bills and any other required information to allow the City to track the increment produced by the project.
- B. The amount of assistance provided to a developer will be limited to the amount necessary to provide the developer a reasonable rate of return on investment in the project and the subject site. A developer's return on equity, return on cost or internal rate of return will be based on current market conditions as determined by the City or City's financial advisor.
- C. Projects receiving assistance will be subject to a "look back" provision. The look back mandates a developer to provide the City or its financial advisor with evidence of its annualized cumulative internal rate of return on the investment (IRRI) at specified periods of time after project completion. The IRRI shall be calculated with equity, revenues, and expenses in accord with generally accepted accounting principals.

When the developer owns the subject property and rents space to tenants, supporting documentation shall include certified records of project costs and revenues including lease agreements and sales on a per square foot basis. If the records indicate that the developer has received a higher return on equity, a higher return on cost, or a higher internal rate of return than originally contemplated at the time of development agreement approval, the developer and the City shall split, on a 50/50 basis, the increase above the originally projected rates of return.

When the subject property is a for-sale development and the IRRI cannot be completed, the developer is to provide financial data after the project is completed. This shall include a calculation of profit on total development costs minus the TIF assistance. If the records indicate that the developer has received a higher return on equity, a higher return on cost, or a higher internal rate of return than originally contemplated at the time of

development agreement approval, the developer and the City shall split, on a 50/50 basis, the increase above the originally projected rates of return.

VI. NON-PROFIT ORGANIZATIONS/TAX EXEMPT PROPERTY

- A. The City may consider financial assistance for projects of non-profit organizations who own tax exempt property. The organization's project will need to meet the pertinent goals of the City's applicable TIF Plan and demonstrate a positive financial impact for the TIF District.

VII. APPLICATION PROCESS AND PROCEDURE

- A. Application for Tax Increment Financing assistance shall be made on the forms provided by the City. An initial fee of one percent (1%) of the requested TIF assistance or \$10,000, whichever is greater, shall accompany any Tax Increment Financing request. This fee shall be used to cover the City's legal, administrative, planning and consultant costs. If an additional amount of money is required to reimburse the City for its costs, the applicant shall be responsible for those costs. If there is an unused portion of the one percent (1%) or \$10,000 fee, the City will reimburse the applicant for any unused amount, at its discretion.
- B. In addition to the information requested in the Tax Increment Financing assistance application, the developer shall submit a preliminary financial commitment from a financial institution; plans and/or drawings for the project; background information on the developer; a proforma analysis; and financial statements.
- C. The developer shall submit audited financial statements for the last three (3) years. If the audited statements are comparative, only two (2) years are needed. If audited statements are not available, three (3) years of annual financial statements and summary schedules for other projects completed or started within the three (3) year timeframe covered by the financial statements must be submitted. The developer must also submit an interim financial statement for the current year. Upon request, the City may permit these documents to be provided directly to the City's financial advisor in order to protect propriety or confidential information.
- D. The developer shall submit a complete listing (name and address) of all investors in the project. The listing shall also identify each individual's ownership interest.
- E. The developer shall comply with all disclosure requirements of the City.